Commission grants ETC designation. Regardless of the extent to which these issues have been addressed, the Commission has clearly identified the specific instances in which Petitioner has failed to meet its burden of proof and these are the deficiencies Petitioner must remedy in order to obtain ETC designation.

The Commission concludes overall that USCOC's petition is deficient in the areas noted above and on that basis we could properly issue a blanket denial of its request for ETC designation. Our concern is the public interest, however, and the purpose of ETC designation is to provide access to funding necessary for an ETC to provide needed services in areas that are underserved or receive no service at all. Our examination of the record in this matter discloses that each of the cited deficiencies can be remedied. Consequently, we do not consider it to be in the public interest to summarily foreclose Petitioner's request for ETC designation. After a complete review of all of the Briefs on Exceptions filed following issuance of the Proposed Order on June 26, 2006, the Commission concludes that Staff outlined the proper method by which Petitioner could remedy the deficiencies noted above. To that end, we have fashioned this Interim Order so as to neither grant nor deny the petition at the present time, but to provide Petitioner with the leeway to furnish the evidence necessary to bring the petition into full compliance with all applicable rules, regulations and statutes. Under these circumstances, Petitioner could thereby satisfy all outstanding public interest considerations. Petitioner's evidence and other supplemental filings will be subject to Staff and Commission review and approval.

XII. Petitioner's Supplemental Filings

(1) Voice Grade Access to the Public Switched Network

Petitioner is to describe by what means it will ensure that customers will be able to send and receive voice grade services.

a. Petitioner

Petitioner stated that it requires its mobile handset and network infrastructure manufacturers to provide equipment that is of voice-grade quality. Testing by a third party company shows that Petitioner maintains an average mean opinion score ("MOS") for voice quality of 3.25 or better for its Illinois network, whereas a MOS of 3.0 or better is equivalent to the voice grade quality of a wire line network. (Hunter Declaration at 1).

Mr. Wood testified that interpreting the phrase "an ETC must offer services supported by federal universal support mechanisms" to mean that a carrier must provide these services using its own facilities to every possible customer location either prior to designation or within a fixed period of time, creates a fictitious standard which the FCC has consistently rejected. ILECs operating as ETCs serve only about 5% of a service area. (Petitioner Exh. A2 at 20-21).

Mr. Wood also explained that Petitioner could only be denied ETC designation under 47 C.F.R. ¶54.20(i) if it offered the services supported by the USF solely through and $30.95 for IITA companies. The average ILEC basic rate for IITA companies is $25.35. (IITA Exh. 3.0 at 16-17).

c. Commission Analysis and Conclusions

Exhibit A to Mr. Hunter's declaration compares Petitioner's Wide Area 700 plan to those of the various IITA companies. It clearly lists each plan separately, with the base rate, calling area, calling scope, cost of the features included and total monthly cost of the plan distinctly listed in well-spaced rows and columns. In response to Mr. Schoonmaker's objection that Petitioner inverted the process and compared ILEC rates to its own, the Commission is unable to fathom in what other form Petitioner could possibly have presented this data to make it any easier to understand.

IITA also objected that Petitioner's plan bundles in additional features that make the plan more expensive. Petitioner correctly makes the point that nothing prevents it from offering features not offered by ILECs. Moreover, Exhibits B-1, B-2, B-3, B4 and B-5 attached to Mr. Hunter's declaration show dozens of Petitioner's rate plans for individuals and businesses. If customers deem these plans too expensive, they are free to reject them and seek service elsewhere. The Commission concludes that Petitioner's local rate usage plans submitted to the Commission as directed by the Interim Order satisfy the requirements of (2) Local Usage.

(5) Access to Emergency Services

Petitioner shall specifically describe how it will handle rerouting and traffic spikes.

a. Petitioner

Petitioner's main switch is connected to the public switched voice network by a ring topology that is redundant. If the ring is cut, traffic can be rerouted. Petitioner uses both microwave and leased lines for added diversity to cell site hubs. Backbone traffic lines are designed with sufficient capacity to manage extraordinary spikes and Petitioner has multiple agreements with long distance providers to absorb excess calling if needed. Petitioner also has cell sites on wheels, mobile towers and mobile generators available for deployment to areas where emergencies or special events cause traffic spikes.

b. IITA

Mr. Schoonmaker testified that he had no evidentiary comments to make regarding Petitioner's responses to this issue.

c. Commission Analysis and Conclusions

Petitioner has described in sufficient detail how it will handle rerouting and traffic spikes. The Commission concludes from the record in this matter that Petitioner will promptly and efficiently handle any situation that entails either circumstance .

(9) Toll Limitation for Qualifying Low-Income Customers

Petitioner is to describe how it will provide Toll Blocking and/or Toll Control.

a. Petitioner

Petitioner can implement toll blocking at the switch level using a range of NPAs and NXXs that can be loaded into a reserved area of the switch. A special feature code is assigned to a customer account and when a call is placed, the switch that receives the call will identify the code as one that involves toll blocking. It compares the NPA of the number dialed with those in the reserved blocking area of the switch. If the switch finds a match, the call is blocked and the customer hears a recording. (Hunter Declaration at 3).

Mr. Wood testified that Mr. Schoonmaker suggested that when the Commission said Petitioner must describe how it will provide toll blocking and/or toll control, it really meant that Petitioner must describe how it will ensure that all Lifeline customers can avoid toll charges, as well as any additional charges for usage beyond a customer's plan. Mr. Wood testified that there is no requirement that an ETC provide extra usage blocking in addition to toll blocking. Customers who wish to assure a limited bill each month can subscribe to a prepaid plan and still receive additional features while limiting their bills to expected amounts. (Petitioner Exh. A2 at 30).

b. IITA

Mr. Schoonmaker testified that Mr. Hunter's declaration does not contain Petitioner's commitment to provide the toll blocking the Commission said is needed and it fails to identify how Petitioner will identify what toll calling is. Toll calling in the ILEC regulatory environment had a specific regulatory meaning. ILECs identified local calling areas in their tariffs and calls outside those areas were designated toll calls and charged on a usage basis. A local area under a wireless plan may depend upon the plan subscribed to and may vary from a small local area to nationwide. Also, wireless plans may include terminating minutes in the usage-based buckets of minutes provided and typically include buckets of minutes. If usage exceeds both originating and terminating minutes, overage charges may be applied. Lifeline customers are concerned with minutes subject to per-minute charges, because they are outside the local calling area, and those minutes outside the bucket of minutes. Petitioner has not defined how it will identify toll minutes in its toll limitation so that Lifeline customers will *have bills limited to amounts expected. The Commission will need to determine* whether the definition, once supplied, meets its toll limitation requirement.

c. Commission Analysis and Conclusions

Petitioner's explanation of its toll blocking procedures, as outlined in Mr. Hunter's declaration, confirms to us that Petitioner has the technical capability to provide toll blocking for its customers. (Hunter Declaration at 3). Mr. Schoonmaker's criticism, that Petitioner has not defined how it will identify "toll minutes" in its toll limitation so that Lifeline customers will have bills limited to amounts expected, is unfounded. (IITA Exh. 3.0 at 19-20). We are not persuaded that identification of "toll minutes" is pertinent to this issue. A toll call occurs when a call is made to a location outside of a defined local area. Excess minutes are billed when they exceed the number of minutes allowed by the particular calling plan. Such excess does not constitute a "toll call".

Mr. Hunter's declaration also makes no reference to Lifeline customers. We directed in our Interim Order that Petitioner was to affirmatively state that it would make toll limitations available for Lifeline customers. (Interim Order at 24). Accordingly, we will make it a requirement of this Order that Petitioner is to inform all Lifeline customers upon subscription that toll limitations are available and that it will provide toll blocking for all Lifeline customers who so request it.

V. Creamskimming

Petitioner is to provide evidence addressing creamskimming concerns in the Wabash Telephone Cooperative study area.

a. Petitioner

Exhibit C attached to Mr. Hunter's declaration is a spreadsheet containing a population density analysis weighted by population for the Wabash service area. Exhibit B shows that the weighted population density of the Wabash exchanges is 19.15 persons per square mile, while the weighted density of the remaining exchanges is 18.14 persons per square mile, a nearly even ratio of 1.06:1. The ratio of the exchanges within the proposed ETC service area to that of all nine Wabash exchanges (19.15:18.48) is 1.04:1. Because population density is used as a proxy to indicate network costs both in an out of a requested ETC service area, the cited population densities do not suggest any significant cost differential between the areas Petitioner proposes to serve and the remaining Wabash areas.

Mr. Wood testified that Mr. Schoonmaker agreed that Petitioner had complied with the Interim Order's directive regarding creamskimming, however Mr. Schoonmaker had proposed that Petitioner's request to redefine the Wabash service area be denied because the planned construction of new facilities is too slow. Mr. Wood added that the total coverage Mr. Schoonmaker describes is likely to require more than a five-year commitment. If redefinition is not granted so that Petitioner can obtain ETC designation in at least part of the service area, Petitioner will receive no USF support to build the necessary facilities. (Petitioner Exh. A2 at 31).

b. IITA

Mr. Schoonmaker acknowledged that Petitioner had complied with the Interim Order's data request, but pointed out that Petitioner's maps show that at the end of the five-year plan, it would not have the capability to provide voice-grade services to customers in the Wabash or Odin study areas through its own facilities. Consequently, there may be no need to redefine either area.

c. Commission Analysis and Conclusions

Our instructions in the Interim Order only required Petitioner to provide evidence addressing creamskimming concerns in the Wabash Telephone Cooperative study area. The Commission and Mr. Schoonmaker agree that Petitioner has complied with those instructions. (IITA Exh. 3.0 at 20). Mr. Schoonmaker has taken the opportunity to again voice his concerns with regard to what he believes will be the inability of Petitioner to provide voice grade services, however that is beyond the scope of this issue and was dealt with in the section on Voice Grade Services, ¶9, above.

VI Service Quality

Petitioner is to affirmatively state to the Commission that it will agree to disclose to each customer prior to consummation of the contract that it does not provide a directory; Petitioner shall also state that it will obtain from the customer a written acknowledgement that the customer understands that no directory will be provided.

a. Petitioner

Prior to the conclusion of the transaction, Petitioner will disclose to all new customers who have a billing address within its proposed ETC service area, that it does not provide a directory. Petitioner seeks relief from the requirement that it obtain an acknowledgement from the customer that customer was informed that no directory will be provided.

b. IITA

Mr. Schoonmaker testified that he had no evidentiary comments to make regarding Petitioner's responses to this issue.

c. Commission Analysis and Conclusions

Petitioner's response that it will inform customers that it does not provide a directory is satisfactory to the Commission. Its statement that it seeks relief from the requirement to obtain a customer acknowledgement that no directory will be provided is unsatisfactory. The Commission does not regard it as burdensome for Petitioner to merely insert a statement in its customer contracts by which a customer acknowledges that he or she has been informed, and agrees, that no directory will be provided.

VII Five-Year Plan

Petitioner shall submit a five-year plan pursuant to ETC Order ¶23 and 47 U.S.C. 54.202(a)(1)(B).

a. Petitioner

Petitioner submitted the five-year plan as Exhibit D attached to Mr. Hunter's declaration. Mr. Hunter testified that Appendix 3 shows the number of proposed new cell sites to be built with USF support during the first five years after the grant of ETC status. Petitioner's April 13, 2006 supplement showed the estimated number of cells associated with non-USF expenditures within the proposed ETC service area in 2005-06. Future non-USF expenditures would be similar. In response to Staff concerns that USF expenditures will not simply replace expenditures planned in the absence of support, Petitioner presented Attachment A to Mr. Hunter's testimony, a spreadsheet showing the estimated number of towers and related expenditures planned without USF support for 2008. Also included is the 2008 data from Appendix 3. (Petitioner Exh. 1A at 2).

Mr. Hunter testified that Exhibit A attached to his testimony clearly shows that Petitioner's planned USF expenditures for 2008 are separate from and incremental to estimated investments planned for 2008 without USF support. Moreover, the Commission can decertify Petitioner if it determines that Petitioner cannot demonstrate that its proposed use of USF support for the coming year will be incremental to investments with internally generated capital. (Id. at 3).

Mr. Wood disagreed with Staff's assessment of the importance of future projections of Petitioner's Illinois-specific non-USF spending. Rapidly changing customer demand and the uncertainty of the amount of available capital render investment plans for the latter part of five-year investment plans of limited utility. Also, the FCC does not require a demonstration of incremental capital expenditures and Petitioner would have no financial incentive to use USF support as a substitute for available capital. In order to attract and retain customers in its ETC service areas, Petitioner would be motivated to invest all available funds in projects that would expand coverage, increase capacity, and provide customers with high quality service. (Petitioner Exh. A2 at 12-15).

Mr. Wood testified that Petitioner had fully complied with the language of Ordering Paragraph 15 and provided the data necessary for the Commission to evaluate the public interest of Petitioner's plans for network improvement for the first five years of ETC operation. (Id. at 18). He added that it is almost certain that Petitioner's actual construction will differ from that proposed in the five-year plan. This *would be due to a different level of support received than projected, actual constructions* costs may vary from those estimated, an increase in available capital may allow Petitioner to fund projects without USF support, allowing that support to be used for additional projects, and market changes may call for reordered priorities regarding some projects. The public interest is better served by a flexible plan that enables Petitioner to adapt to public needs quickly and efficiently. The Commission will be able to annually review and evaluate Petitioner's buildout performance. (Id. at 33).

b. IITA

Mr. Schoonmaker testified that Petitioner stated in Exhibit G of its initial petition that it would construct ten new cell sites within the first 15 months after ETC designation. In Attachment 7 to IITA Exh. 3.0, Petitioner stated that it had no current plans to construct five of the sites, which to Mr. Schoonmaker raised the question whether Petitioner's actual construction in the next five years will differ substantially from its five-year plan projections.

c. Staff

Mr. Hoagg testified that Petitioner has failed to demonstrate that its proposed use of USF support to expand its network will be incremental to its spending plans. Petitioner must show evidence of its non-USF spending in Illinois over the next several years. Without this data, Staff cannot state that Petitioner has submitted an acceptable multi-year USF investment plan.

d. Illinois Bell

Mr. Stidham testified that Petitioner's five-year plan fails to comply with ¶23 of the ETC Order, because it fails to describe proposed improvements to its network on a wire center-by-wire center basis, fails to demonstrate what supported improvements will be made throughout a service area, fails to explain why improvements in a particular wire center would not be needed, and fails to explain how funding would be used to provide supported services in a particular area.

e. Commission Analysis and Conclusions

The Interim Order required Petitioner to submit a five-year plan pursuant to ¶23 of the ETC Order and 47 U.S.C. §54.202(a)(1)(B). Staff objects that Petitioner's five-year plan lacks specificity regarding non-USF spending. (Staff Exh. 16.0 at 3). The third sentence of ¶23 states "(T)he five-year plan must demonstrate in detail how high-cost support will be used for service improvements that would not occur absent receipt of such support". Neither this sentence nor any other language in ¶23 requires non-USF support to be addressed in a five-year plan. We do not consider Petitioner's five-year plan to be contrary to ¶23 because it does not address the use of non-USF funds.

Illinois Bell objects to Petitioner's five-year plan because it is fails to include a description of the specific improvements planned for each wire center and how supported funds would be used to effect those improvements. (Illinois Bell Exh. 2.0 at 4). We interpret Illinois Bell's principal concern to be that, according to the five-year plan, Petitioner will build its network largely using USF support and still leave some areas for which it has been granted ETC designation uncovered. Petitioner stated in the plan that, because it believes that every wire center in its proposed ETC service area needs improved facilities, there is no need to explain why improvements are not needed for certain wire centers. We agree. Appendices 1 and 2 (confidential and proprietary) to the five-year plan set out what wire centers are targeted for improvement, their municipal location, and the estimated time those improvements will begin and end. Additionally, Attachment A (confidential and proprietary) to Petitioner's Exh. A1 contains a breakdown of how Petitioner would use non-USF expenditures in 2008 and Appendix 3 (confidential and proprietary) to the five-year plan identifies how many new sites would be constructed in the next five years and the total USF expenditures for each year, followed by a grand total. Appendices 4 through 9 attached to the plan are color-coded maps that project significantly increased coverage in Petitioner's ETC designated areas for the next five years.

The Commission is aware that the five-year plan does not, letter-for-letter, meet the terms of ¶23 and 47 U.S.C. §54.202(a)(1)(B), however we will not require it to. The sufficiency of Petitioner's five-year plan is not diminished merely because it does not conform in exact detail to the procedures set out in ¶23 and 47 U.S.C. §54.202(a)(1)(B). Moreover, it does not cause us to question whether Petitioner is fully committed to its undertaking. Petitioner's five-year plan is replete with data that, considered in its entirety, allows the Commission to properly assess what Petitioner's plans are for improvements to the wire centers in its ETC designated areas and what the USF and non-USF commitments to those improvements will be. The Commission finds this to be an adequate basis to deem the five year plan to be proper and to grant the requested ETC designation.

XIII. Petition for Waiver and Variance of USCOC

As part of its supplemental filing, Petitioner included a Petitioner for Waiver and Variance of USCOC, requesting that specific provisions of 83 Ill. Adm. Code 730 and 735 be waived until a rulemaking establishes rules for competitive ETCs. Petitioner stated that, pursuant to 83 Ill. Adm. Code 735.50, the Commission may grant a temporary or permanent waiver if (a) the provision from which the waiver is granted is not statutorily mandated; (b) no party will be injured by the granting of the waiver; and (c) the rule from which the waiver is granted would, as applied to the particular case, be unreasonable or unnecessarily burdensome. (83 Ill. Adm. Code 730.110 contains identical language).

730.535 Interruptions of Service

a. Petitioner

Petitioner seeks a waiver of the provisions of 83 Ill. Adm. Code 730.535 (a), (b) and (c), which contain requirements for local exchange carriers to deal with interruptions of service. Petitioner would comply with paragraphs (d) and (e). Petitioner argued that the provisions are not statutorily mandated, no party would be harmed if the waiver were granted, and the same relief was granted to Petitioner in Docket 04-0454. Petitioner stated that it has provided evidence that it has work crews available 24/7 and it routinely clears 95% of outages within 24 hours. Paragraphs (a), (b), and (c) apply to wireline carriers and are not easily adapted to wireless carriers. Under (c), there is no need to gain access to a customer's premises because no wires are involved and concepts such as "network interface" and "network interface device" are unique to the wireline industry. Moreover, submitting outage reports confidentially to the FCC is the functional equivalent of 730.535 and these reports would also be made available to the Commission if the same confidential treatment were granted.

b. IITA, Staff and Illinois Bell did not object to granting this waiver.

c. Commission Analysis and Conclusions

The Commission finds that the requested waiver should be granted insofar as the provisions of paragraphs (a), (b) and (c) are not statutorily mandated, no party would be harmed by the waiver and the rule from which the waiver would be granted would be unduly burdensome.

730.550 Network Outages and Notification

a. Petitioner

Petitioner argued that the requirements of paragraph (a) are not statutorily mandated and that it would comply with this provision, except that it cannot report outages on an exchange basis because Petitioner does not have exchanges. The rule was written for local exchange carriers, so applying it to Petitioner would be unreasonable. Petitioner requests that it be allowed to comply with paragraph (a) by reporting network outages by MTSO as opposed to exchanges between the interim period today and the time rules contemplated in Docket 06-0468 become effective.

b. IITA, Staff and Illinois Bell did not object to granting this *waiver.*

c. Commission Analysis and Conclusions

The Commission finds that the requested waiver should be granted insofar as the provisions of paragraph (a) are not statutorily mandated, no party would be harmed by the waiver and the rule from which the waiver would be granted would be unduly burdensome.

735.100 Applicants for Service

a. Petitioner

Petitioner requests a variance from the requirements of paragraph (e), establishment of credit standards applicable to wireless business models, during the interim period between today and the time rules contemplated in Docket 06-0468 become effective. The requirements are not statutorily mandated because the implementing sections of Part 735 are Sections 8-101 and 9-252 of the Act (220 ILCS 5/8-101; 220 ILCS 5/9-252), which are not applicable to competitive telecommunications rates pursuant to Section 13-101 of the Act (220 ILCS 5/13-101). Petitioner in Docket 04-0454 was not required to comply with this provision and no party will be harmed by granting the variance. Petitioner obtains a customer's credit score from a national credit bureau, not the customer, and customers are not required to submit personal credit information. Deposit requirements are determined solely by the credit score. It would be unreasonable to require Petitioner to implement credit mechanisms that few modern carriers currently use.

b. IITA, Staff and Illinois Bell did not object to granting this waiver.

c. Commission Analysis and Conclusions

The Commission finds that the requested waiver should be granted insofar as the provisions of paragraph (e) are not statutorily mandated, no party would be harmed by the waiver and the rule from which the waiver would be granted would be unduly burdensome.

735.120 Deposits

a. Petitioner

Petitioner requests a variance from paragraphs (a) rules setting the amount of the deposit, (b) rules establishing payment of the deposit, (i) rules providing guarantees in lieu of a deposit, and (j) rules providing for a surety bond in lieu of a cash deposit. The requirements are not statutorily mandated because the implementing sections of Part 735 are Sections 8-101 and 9-252 of the Act (220 ILCS 5/8-101; 220 ILCS 5/9-

252), which are not applicable to competitive telecommunications rates pursuant to Section 13-101 of the Act (220 ILCS 5/13-101). No party will be harmed by granting the requested variances.

Regarding paragraph (a), Petitioner charges a deposit up to $200 based on a formula tied to a customer's credit score, but most customers pay a deposit significantly less than that. If a customer considers a deposit too high, it can choose Petitioner's prepaid service, which does not require a deposit, it can choose another carrier, or a Lifeline-eligible customer may choose Petitioner's basic rate plan, which does not require a deposit. Also, application of paragraph (a) would be unduly burdensome because it would require Petitioner to reestablish its deposit policies for only its Illinois customers. Under paragraph (b), if a customer considers a deposit too high, it can choose Petitioner's prepaid service or it can choose another carrier. Regarding paragraphs (i) and (j), these methods are very rarely used, if at all. For a customer who cannot pay a deposit with cash, credit card or money order, Petitioner offers prepaid service or customer can choose another carrier.

b. IITA

IITA objected to the requested variance on the grounds that it provides a competitive advantage to an ETC versus a local exchange carrier. Limited deposits are part of the customer protections afforded by the Commission to reduce the barriers to universal telephone service. Waiving the regulations regarding deposits does not foster such service.

c. Staff and Illinois Bell did not object to granting this waiver.

d. Commission Analysis and Conclusions

If paragraphs (a) and (b) are waived, Petitioner would be allowed to levy a deposit of up to $200 on a customer or an applicant for service, and could request that an amount in excess of one-third of the deposit be paid at any time. Petitioner states that most of its customers pay significantly less than $200, but presents no data in support. Deposit requirements could still be substantially higher than the amount required by paragraph (a) and Petitioner could demand all or most of it up front. This does not strike us as beneficial to applicants and customers and highlights particularly well the reason for these provisions.

Paragraph (i) allows for the written guaranty of a responsible party as surety for a residential account in lieu of a deposit. Any customer of Petitioner with at least 12 months of service who has not been discontinued for non-payment during the most recent 12 months, qualifies as a responsible party. Paragraph (j) would require Petitioner to accept a surety bond in lieu of a cash deposit, provided that the bond is issued by an insurance company authorized to act by the Illinois Department of Insurance.

Regardless of how seldom used or even cumbersome the use of sureties has *become at present, paragraphs (i) and (j) nevertheless provide additional means by* which applicants and customers can obtain service without a deposit. This, again, is to their advantage and we approve of these procedures.

735.180 Directories

a. Petitioner

Petitioner cited the Interim Order in which the Commission required Petitioner to "disclose to each customer prior to consummation of the contract that it does not provide a directory and that Petitioner shall obtain from the customer a written acknowledgement that the customer understands that no directory will be provided." (Interim Order at 48). Petitioner argued that when telephone sales are completed, it sends a package to the customer which contains, among other materials, a copy of the contract. Requesting customers to sign and return an acknowledgement would very likely result in, at best, sporadic responses. Requiring Petitioner to follow-up until all customers respond would be extraordinarily burdensome. Petitioner also estimated that the cost of complying would reach the mid-six figures annually, which would curtail its ability to improve and expand wireless coverage in rural Illinois.

b. IITA

IITA argued that if the Commission fails to adopt Staff's proposal in Docket 06-0468 not to waive 735.180, Petitioner should not be granted waiver of a rule to which other ETC's must adhere. IITA characterized Petitioner's request for a waiver as a collateral attack on the Interim Order and one that is procedurally inappropriate. Petitioner also fails to offer support for its claim that the acknowledgement provision is unduly burdensome. Further, the acknowledgement provision was imposed on Illinois Valley Cellular in Docket 04-0454.

c. Staff and Illinois Bell did not object to granting this waiver.

d. Commission Analysis and Conclusions

The Commission has no reservations in granting Petitioner's request to waive the directory publication requirements of 735.180, as long as the customer is so advised and Petitioner obtains an acknowledgement that the customer understands that. We will not require Petitioner to adhere to the time consuming procedure of obtaining a written acknowledgement. To paraphrase our language in ¶14, above, Petitioner has merely to include a clause in its contract with the customer that states, in effect, by entering into this contract, customer understands and acknowledges that Petitioner will not provide a directory.

XIV. Post Interim Proposed Order Exceptions

(1) Voice Grade Access to the Public Switched Network

IITA pointed out that a study area-by-study area analysis (absent from the Post Interim Proposed Order) would disclose the inadequacy, or complete lack, of Petitioner's proposed coverage in various exchanges for which ETC designation is requested. It further stated that Petitioner's maps show that service would not improve over time even with USF funding and Petitioner is not marketing itself in areas where it provides no service. Moreover, Petitioner's plan to fill in the gaps with resold services in certain study areas violates 47 C.F.R. §54.201(i), which prohibits a state commission from conferring ETC designation upon a telecommunications carrier that offers USF supported services exclusively through the resale of another carrier's services.

Petitioner responded that IITA's argument puts Petitioner between a rock and a hard place. Where wireless carriers have constructed networks, wireline carriers argue that USF support is not necessary to compete, yet where wireless carriers have not constructed networks, wireline carriers state that an applicant fails to show the requisite commitment and should not be designated an ETC. Petitioner argued that the lack of service in an area would actually be cured by high-cost support. It further argued that it is not required to establish facilities in an area prior to obtaining ETC designation and that it has no intention of offering services exclusively through resale. Finally, a study area-by-study area analysis would impose an undue and wasteful burden on the Commission.

Nothing in IITA's arguments compels us to change our original conclusions. The maps submitted by Petitioner are projections that could, and likely will, change dramatically in the intervening years. This is not to say that they should not be taken seriously now, but Petitioner has made the point repeatedly that its network buildout will be an ongoing process that will almost certainly exceed five years. The current map projections may not bear any relationship to the network as finally constructed. To state that the maps show that service will not improve over time even with USF funding is to engage in nothing more than speculation.

Furthermore, the record does not support IITA's claim that Petitioner is going to provide coverage through the exclusive use of resold services. Petitioner's record establishes that it will build a network using the USF in conjunction with its own capital. Also, Petitioner indicated its awareness that it would receive no USF funding if it engaged exclusively in the resale of services.

Local Usage

IITA argued that instead of comparing its own rate plan for USF supported services to ILEC rates, Petitioner inverted the process by comparing ILEC rate plans, containing some unsupported services, to Petitioner's offerings which also include unsupported services. ILEC rates should be the benchmark for comparisons, because ILECs have historically been required to offer basic local rate packages without unsupported features to keep rates as low as possible and enhance affordability of services. By bundling into its rates additional features that are not supported services, Petitioner increases the costs of its basic service offering. It should offer a plan that shows only what customers would pay for supported services.

Petitioner countered that its rate plans would be found economical by consumers because they offer a much wider local calling area than any of the ILECs and its lower-priced plans would be more beneficial to consumers who make limited numbers of calls. Petitioner also stated that its prices will not drop as a result of ETC designation because it plans to use the USF to build out is network, not to fund price decreases.

The Commission is not persuaded that Petitioner is somehow prohibited from presenting rates plans that are not streamlined to the lowest possible cost. Other than a vague reference to the "federal act", IITA cite no statue, rule or regulation requiring Petitioner to provide a rate plan with or without specific features. Nor does IITA provide its own guidelines as to what Petitioner's lowest possible cost should be or what its rate packages should or should not contain. Petitioner is unrestricted in designing its own rate packages for customers and if customers are dissatisfied with the offerings, they are free to seek service elsewhere.

(9) Toll Limitation for Qualifying Low-Income Customers

IITA argued that Petitioner did not affirmatively state in Mr. Hunter's Declaration that it would commit to provide toll blocking and his technical explanation of how toll blocking occurs does not clearly state how Petitioner would identify what toll calling is. ILECs identify local service areas in their tariffs and provide unlimited local calling for a flat rate, both originating and terminating within that calling area. Calls terminating from any location were completed without an additional charge. Calls to locations outside that area were designated toll calls and charged under the toll tariff of the carrier providing the service. A toll blocking service assured customers that their bills would not exceed a certain amount.

Lifeline customers seeking to limit their wireless monthly bills need to be concerned about per-minute charges either because they are outside a designated local calling area or because they exceed a designated number of minutes. A minute subject to a $0.49 overcharge, as is Petitioner's rate, in Petitioner's case, would be viewed as a toll minute regardless of whether it was an originating or terminating minute and regardless of the location to which it was directed.

Petitioner argued that IITA presents no new arguments. The Proposed Interim Order correctly differentiated between toll calls and excess minutes and found that excess minutes do not constitute toll calls. Moreover, federal rules do not require that excess minutes be blocked and IITA failed to cite any authority that treats excess minutes as toll minutes.

The Commission notes that the Proposed Interim Order also required Petitioner to commit to toll blocking for its Lifeline customers. While Mr. Hunter described in his Declaration the process by which Petitioner could implement toll blocking, he did not state that Petitioner will commit to toll blocking for its Lifeline customers. Petitioner has not made this affirmative statement anywhere in the record. We do not consider this omission, by itself, to be a basis for denial of ETC designation, however we will include it in the Findings and Ordering Paragraphs, thereby making it mandatory that Petitioner provide toll blocking for Lifeline customers. The Commission can then monitor this feature during its annual certification review of Petitioner's progress.

VII Petitioner's Five-Year Plan

IITA pointed out that the form of the Five-Year Plan submitted by Petitioner fails to distinguish between spending that would occur in the absence of USF support and spending that would occur with those dollars. The Commission would have no way to verify that the USF will benefit Illinois consumers as opposed to Petitioner's shareholders. This alone is a basis to deny ETC designation. Petitioner's claim that it has an incentive to invest all available funds to improve its Illinois network is flawed. First, adding USF funds to Petitioner's pool of available capital increases that pool. The concern is that marginal sites projected to produce an insufficient rate of return would see no investment. Also, the pool would be fungible among states, providing Petitioner with an incentive to move available capital to lower cost, higher density facilities in other states. The Commission cannot assume that incentives alone will compel Petitioner not to use the USF to replace capital.

Second, the Five-Year Plan fails to explain why wire centers not targeted for upgrades do not require such work. Petitioner's response seemed to indicate that it would get around those wire centers in the future. The ETC Order does not require every wire center to be built out in five years, but it does require an explanation of why a wire center is not being built out and how it will benefit from the USF.

Petitioner replied that infrastructure planning in the telecommunications industry has visibility for approximately one year, after which plans become educated guesses, even by experienced business operators. The FCC's annual certification requirement provides the Commission with an opportunity to review Petitioner's annual progress.

IITA speculates that, because Petitioner fails in its plan to spell out to IITA's satisfaction how it projects to use the USF, certain negative results are inevitable. We do not share IITA's concerns. Petitioner has provided detailed information, both in the plan and in other evidence admitted in this proceeding. More to the point is USCOC's position that planning of the type involved here should be adaptable to changing conditions and circumstances, rather than be rigidly set forth in an unalterable document. IITA's speculation is precisely that – mere guesswork as to what it alone fears will happen without a minutely detailed five-year plan from which no deviation is possible.

XV. Findings and Ordering Paragraphs

The Commission, having examined the entire record herein and being fully advised in the premises, is of the opinion and finds that:

(1) Petitioner is a commercial mobile radio service provider pursuant to 47 U.S.C. §153(27);

(2) the Commission has jurisdiction over Petitioner and the subject matter herein;

(3) the recitals of fact and the conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact;

(4) Petitioner's ability to meet its burden of proof regarding the supported service requirements set forth in 47 C.F.R §54.101(a) (1), (2), (3), (4), (5), (6), (7), (8) and (9) is in the public interest;

(5) Petitioner sufficiently addressed creamskimming concerns;

(6) Petitioner's five-year plan is in the public interest;

(7) Petitioner's Lifeline and Link Up plans are in the public interest;

(8) Petitioner has demonstrated that it is prepared to assume the role of provider-of-last-resort and this is in the public interest;

(9) Petitioner should provide toll blocking for its Lifeline customers;

(10) Petitioner should comply with and meet the standards of 83 Ill. Adm. Code 730 and 735 except 730.535(a), (b) and (c)-Interruption of Service, 730.550(a)-Network Outages and Notifications, 735.100(e)-Applicants for Service, and 735.180-Directories, as long as Petitioner notifies the customer that it will not furnish a directory and obtains the customer's acknowledgement of such;

(11) Petitioner satisfies the public interest requirement set forth in 47 U.S.C. §214(e)(2);

(12) Petitioner should be designated an Eligible Telecommunications Carrier for purposes of receiving Federal Universal Service support in the ETC-designated areas depicted in Attachment A to the petition, pursuant to Section 214(e)(2) of the Telecommunications Act of 1996, except as noted in paragraph (10) below;

(13) *Petitioner should be granted ETC designation in that portion of the wire* centers where it is authorized by the FCC to serve, also listed as Attachment B to the petition;

(14) Petitioner should be granted ETC designation in the rural LEC study areas covered entirely by Petitioner's proposed ETC service area, as listed on Attachment C to the petition;

(15) Petitioner's FCC-licensed area should be redefined so that each wire center, shown on Attachment D to the petition as Citizens Communications of Illinois d/b/a Frontier Communications of Illinois, Frontier Communications of Midland, Inc., Odin Telephone Exchange, Inc. and Wabash Telephone Cooperative, is a separate service area and Petitioner should be designated an ETC in those areas;

(16) the Verizon South, Inc. wire center should not be redefined as a separate service area and ETC designation should be denied.

IT IS THEREFORE ORDERED that USCOC of Illinois RSA #1, LLC, USCOC of Illinois RSA #4, LLC, USCOC of Rockford, LLC and USCOC of Central Illinois, LLC is hereby designated as an Eligible Telecommunications Carrier for purposes of receiving Federal Universal Service support in the ETC-designated areas depicted in Attachment A to the petition, pursuant to Section 214(e)(2) of the Telecommunications Act of 1996, except as noted below.

IT IS FURTHER ORDERED that Petitioner is granted ETC designation in that portion of the wire centers where it is authorized by the FCC to serve, also listed as Attachment B to the petition.

IT IS FURTHER ORDERED that Petitioner is granted ETC designation in the rural LEC study areas covered entirely by Petitioner's proposed ETC service area, as listed on Attachment C to the petition.

IT IS FURTHER ORDERED that the portions of the areas outside of Petitioner's FCC-licensed area are redefined so that each wire center, listed on Attachment D to the petition as Citizens Communications of Illinois d/b/a Frontier Communications of Illinois, Frontier Communications of Midland, Inc., Odin Telephone Exchange, Inc. and Wabash Telephone Cooperative, is a separate service area and Petitioner is designated an ETC in those areas.

IT IS FURTHER ORDERED that the Verizon South, Inc. wire center is not redefined as a separate service area and ETC designation for this wire center is denied.

IT IS FURTHER ORDERED that Petitioner shall comply with 83 Ill. Adm. Code 730 and 735, except 730.535(a), (b) and (c)-Interruption of Service, 730.550(a)-Network Outages and Notification, and 735.100(e)-Applicants for Service.

IT IS FURTHER ORDERED that Petitioner is exempt from the requirements of *83 Ill. Adm. Code 735.180-Directories; Petitioner is directed to notify the customer that it* will not furnish a directory and is further directed to obtain the customer's acknowledgement of such.

IT IS FURTHER ORDERED that Petitioner shall provide toll blocking for its Lifeline customers;

IT IS FURTHER ORDERED that any petitions, motions, or objections made in this proceeding that remain undisposed of shall be considered disposed of consistent with the findings, opinions, and conclusions set forth herein.

IT IS FURTHER ORDERED that, pursuant to the provisions of Section 10-113 of the Public Utilities Act (220 ILCS 5/10-113) and 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 27th day of February, 2008.

(SIGNED) CHARLES E. BOX

Chairman